



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 26, 1996

Ms. Annette Jones
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR96-1304

Dear Ms. Jones:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. We assigned your request ID# 100843.

The City of Waco (the "city") has received a request for information relating to the arrest and indictment of an individual for burglary of a habitation. You assert that the requested information is excepted from required public disclosure by sections 552.103 and 552.108 of the Government Code.

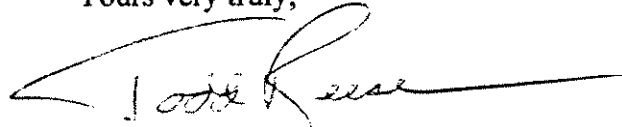
Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.¹ *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We therefore conclude that, except for front page offense report

¹The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

information, section 552.108 of the Government Code excepts the requested records from required public disclosure.² On the other hand, you may choose to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.³

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Todd Reese
Assistant Attorney General
Open Records Division

²As we resolve this matter under section 552.108, we do not address your claim for withholding the information under section 552.103.

³We also note that section 552.027 of the Government Code is applicable to this request. Section 552.027 was added by Act of May 18, 1995, 74th Leg., R.S., ch. 302, § 1, 1995 Tex. Sess. Law Serv. 2670, and provides:

- (a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.
- (b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by the governmental body pertaining to that individual.
- (c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.

Section 1.07(a)(14) of the Penal Code provides:

"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

- (A) a municipal or *county jail*. [Emphasis added.]

The requestor is an inmate of the McClellan County Jail. As the individual requesting the information at issue is "an individual who is imprisoned or confined in a correctional facility," the request is subject to section 552.027 of the Government Code. Thus, section 552.027 also gives you the discretion to either "comply with" this open records request or deny it in its entirety.

RTR/rho

Enclosures: Submitted documents

Ref.: ID# 100843

cc: Mr. Bobby Joe Parr
McClellan County Jail
510 Columbus Avenue
Waco, Texas 76701
(w/o enclosures)